

DELEGATED APPLICATION REPORT - Application No. 170391/VAR

Address: 9 West Street

Proposal: Application for removal of condition 3 (hours of use) of planning permission ref. 160783 (Change of Use of the premises from a Hair and Beauty Use (Mixed A1 Retail and Sui Generis) to Tanning Salon and Adult Gaming Centre (Sui Generis))

Case officer: Matt Burns

Site Description and Surrounding Area

The application site is an end of terrace two storey building located on the north east side of West Street. The building is currently vacant.

With reference to the Reading Central Area Action Plan (the RCAAP), the application site is within the designated Reading Central Area and the designated Primary Shopping Area, with the West Street frontage also being an identified 'active frontage', and within the designated office and central cores. The application site is also located within an air quality management area (AQMA).

The surrounding area comprises a mix of uses, with a variety of retail and related uses on West Street. West Street is a wide bus-priority street which also contains an apart-hotel (No. 26, on the west side, first floor level) and residential uses in some of the first floor levels.

Proposal

The proposal seeks removal of condition 3 (hours of use) of planning permission ref. 160783 (Change of Use of the premises from a Hair and Beauty Use (Mixed A1 Retail and Sui Generis) to Tanning Salon and Adult Gaming Centre (Sui Generis)).

Plans and Documents Considered

Plan no. 4690 rev A - Location and Site Plan

Northern Planners Planning Statement dated February 2017

Received on 14th March 2017

Planning History

07-00424-ADV Small projecting sign and shopfront signage - Permitted

93-00268-FUL New shop front - Permitted

160783-FUL - Change of Use of the premises from a Hair and Beauty Use (Mixed A1 Retail and Sui Generis) to Tanning Salon on the First Floor and Adult Gaming Centre on the Ground Floor (Sui Generis) - Permitted, subject to conditions at Planning Applications Committee.

Consultations

RBC Environmental Protection:

Condition 3 was applied to the consent given in 2016 in order to protect residential amenity from noise disturbance. There is no reason to believe the situation has

changed since this condition was applied therefore no justification to remove the condition.

There are a number of residential properties on West Street situated above the shops and these residents are likely to be disturbed by noise from people coming and going from the premises and possible congregation of people outside including smokers if this occurs late at night. The current restriction of opening hours to 22:00 seems reasonable in this context.

The applicant has listed opening hours of other premises on West Street as an example of later opening hours but these are mostly restaurants that close at 10 or 11 pm therefore this does not justify a removal of the condition.

RBC Licensing:

It would be unlikely that any licence for an Adult Gaming Centre at this site would be permitted to trade other than between the hours of 9am to 10pm.

Comments made on the original application 161783 set out below:

The proposal to turn 9 West Street into a mixed use premises which potentially permits an Adult Gaming Centre does raise concerns. Any application submitted to the Licensing team under the Gambling Act 2005 would have to demonstrate the following:

- 1) That the application promotes the 3 licensing objectives of prevention of crime and disorder; ensuring that gambling is carried out in a fair and open way and prevents any harm to children and vulnerable people.*
- 2) That the application addresses the Council's Local Area profile contained within the gambling premises - pertinently how it will mitigate the risks within the local area including potential for underage gambling and anti social behaviour. Anti Social behaviour is at its highest in Abbey Ward and I attach the Council's Local Area map to this email.*
- 3) That the application conforms to the Secretary of State's Guidance*
- 4) And that the premises will be run in accordance with the mandatory conditions outlined in the Licensing Codes of Practice issued by the Gambling Commission.*

Licensing would also expect, as in accordance to our Gambling Policy, that the applicant has achieved the correct planning consent.

Whilst these are not matters that directly concern the planning committee, Abbey ward already has a high proportion of gambling establishments. Abbey ward also has the highest rate of anti social behaviour within Reading - largely due to the amount of people who come into the town centre during the day and during the night time economy.

Gambling and issues around gambling - including risk to children and vulnerable persons, gambling addiction, anti social behaviour and a high proportion of gambling establishments being located in a small area does give cause for concern.

Whilst Adult Gaming Centres are a lower risk than a betting shop equipped with Fixed Odds Betting Terminals (B2) (where currently players can stake £100 every 20 seconds or £18,000 in an hour), they do have the potential to cause similar issues if they are not well managed and risks identified in advance - particularly as they are permitted an unlimited amount of category C and D machines and potentially 20% of the machines could be B3 or B4. Link attached stating maximum stakes and prizes per category of machine - <http://www.gamblingcommission.gov.uk/Gambling-sectors/Gaming-machines/About-gaming-machines/Gaming-machine-categories/Gaming-machine-categories.aspx>

Public consultation:

Notification letters were sent to a number of nearby occupants at No's 7, 7A, 9, 11, 32-41 and 61-64 West Street on 11th May 2016 and a site notice was displayed.

One letter of objection has been received which raises concerns with the change of use to an adult gaming centre, the principle of which was already agreed as part of the original consent. The change to the proposed hours of operation is not referred to within the representation which is the subject of this application.

RELEVANT PLANNING POLICY AND GUIDANCE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'.

The following local and national planning policy and guidance is relevant to this application:

National

National Planning Policy Framework (2012):

Section 2: Ensuring the vitality of town centres

National Planning Practice Guidance

Reading Borough Core Strategy (January 2008) (Altered 2015):

CS26 Network and Hierarchy of Centres

CS27 Maintaining the Retail Character of Centres

Reading Borough Sites and Detailed Policies Document (2012)(Altered 2015):

DM4 Safeguarding Amenity

DM23 Shopfronts and Cash Machines

Reading Central Area Action Plan (Adopted January 2009)

RC6 Definition in the Centre

RC10 Active Frontages

APPRAISAL

An application submitted under s73 allows the local planning authority to only consider the proposed amendments. All other matters remain as approved under planning permission 160783. If planning permission to remove the condition is granted, this has the effect of granting a new permission for the whole development.

Planning permission was granted on 13th September 2016 for change of use of the building from a Hair and Beauty Use (Mixed A1 Retail and Sui Generis) to Tanning Salon on the First Floor and Adult Gaming Centre on the Ground Floor (Sui Generis).

The application now under consideration seeks to remove condition no. 3 (hours of use) of the above planning permission. Condition no.3 stipulates that the

The uses hereby permitted shall not be open to customers outside the following times: 09.00-22.00 Mondays to Sundays

Reason: in order to protect neighbouring premises from unreasonable disturbance arising from the use. Sites and Detailed Policies Document (2012, Altered 2015) Policy DM4

Removal of the condition would allow unrestricted operation of the premises.

As set out above the reason for applying condition no.3 was to control the operating hours of the proposed development in order to protect neighbouring premises from unreasonable disturbance arising from the use. Subject to this condition the proposal was considered to accord with Policy DM4 (Safeguarding Amenity)

The supporting statement submitted as part of the application to remove the condition restates much of the reasoning put forward as part of the original application which also sought unrestricted hours of use.

The applicant does not consider that there is a justifiable planning reason to restrict the hours of use stating that the current permitted hours were recommended by the licensing officer and that planning and licensing operate under separate regimes.

The application also objects to the hours of use imposed in that they do not consider this consistent with other late night operators in the area. The supporting statement refers to a number of other late users in the area such as restaurants and hot food takeaways, some of which have opening hours until 12pm, whilst reference is also made to Silvers Amusements which has 24 hour operating. These other surrounding uses were acknowledged and fully considered by the Local

Planning Authority when the original application was determined. In particular it was noted that Silvers is a historic unrestricted use.

As set out in the officer reports for original permission the (now permitted) use of the premises potentially adds to the existing late night impacts for residential occupants within and surrounding West Street and the Town Centre. Therefore a balance is required in terms of imposing opening hours on the proposal, in relation to the existing range of late night activities in the locality, and safeguarding the amenity of nearby residential properties.

The Council's licensing officer has also further reiterated that if the applicant applied for a Gambling Licence, it is likely, that given the levels of anti-social behaviour in the town, the hours of 9am to 10pm would be appropriate. These hours have been suggested by the licensing officer to establish some consistency with other licensed premises in the town centre. Environmental Protection Officers have also commented that there has been no change in the context of the site which would warrant removal of the condition.

There has been no change in policy context since the original permission was granted in September 2016, nor has there been any material change in the context of the site, the proposed use or surrounding area which would alter the reason as to why the condition was imposed or justify its removal. Given the existing uses in the vicinity, including late night operators and residential units the condition is still considered necessary and reasonable to protect the residential amenities of the nearby area in accordance with Policy DM4 of the Sites and Detailed Policies Document (2012, 2015).

Equality Act

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation. There is no indication or evidence (including from consultation on the application) that the protected groups have or will have different needs, experiences, issues and priorities in relation to the particular planning application.

RECOMMENDATION

REFUSE planning permission for removal of condition no. 3 of planning permission ref. 160783.

REASON

1. Removal of condition no. 3 of planning permission ref. 160783 to allow 24 hour unrestricted operation of the Tanning Salon and Adult Gaming Centre at no. 9 West Street Reading would result in unacceptable noise and disturbance to the residential amenities of the nearby area, contrary to Policy DM4 of the Sites and Detailed Policies Document 2012, 2015.

Informatives

1. The decision relates to the following drawings and documents:

Plan no. 4690 rev A - Location and Site Plan

Northern Planners Planning Statement dated February 2017

Received on 14th March 2017

2. The local planning authority has worked with the applicant in a positive and proactive way by clearly setting out concerns relating to the proposal and providing an opportunity for the applicant to withdraw the application. However, the applicant chose not to withdraw the application, hence the issuing of this refusal notice.